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6 **BEFORE THE**  
7 **BOARD OF REGISTERED NURSING**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 **NIKKI BURROWS**  
12 **14 Gardenia Circle**  
13 **Salinas, CA 93906**

14 **Registered Nurse License No. 481029**

15 Respondent.

Case No. 2012-175

OAH No. 2011110712

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

16 **FINDINGS OF FACT**

17 1. On or about September 26, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her  
18 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
19 Consumer Affairs, filed Accusation No. 2012-175 against Nikki Burrows (Respondent) before the  
20 Board of Registered Nursing (Board). (Accusation attached as Exhibit A.)

21 2. On or about August 31, 1992, the Board issued Registered Nurse License No. 481029  
22 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to  
23 the charges brought in Accusation No. 2012-175 and will expire on May 31, 2012, unless  
24 renewed.<sup>1</sup>

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27 <sup>1</sup> Business and Professions Code section 2764 provides, in pertinent part, that the  
28 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
proceeding against the licensee or to render a decision imposing discipline on the license.

1           3.     On or about September 26, 2011, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 2012-175, Statement to Respondent, Notice of Defense,  
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of  
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.  
6 Respondent's address of record on September 26, 2011, was 33 Harvest Street, Salinas, CA  
7 93901.

8           4.     Service of the Accusation was effective as a matter of law under the provisions of  
9 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
10 124.

11           5.     On or about October 3, 2011, Respondent signed and returned a Notice of Defense  
12 requesting a hearing in this matter and indicating a new address of record at 143 Hawthorne  
13 Street, Salinas, CA 93901. A Notice of Hearing was served by mail at Respondent's new address  
14 of record and it informed her that an administrative hearing in this matter was scheduled for May  
15 14, 2012. Respondent failed to appear at that hearing.

16           6.     Government Code section 11506 states, in pertinent part:

17                 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
18 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
19 of the accusation not expressly admitted. Failure to file a notice of defense shall  
20 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
21 may nevertheless grant a hearing.

22           7.     California Government Code section 11520 states, in pertinent part:

23                 (a) If the respondent either fails to file a notice of defense or to appear at the  
24 hearing, the agency may take action based upon the respondent's express admissions  
25 or upon other evidence and affidavits may be used as evidence without any notice to  
26 respondent.

27           8.     Pursuant to its authority under Government Code section 11520, the Board finds  
28 Respondent is in default. The Board will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 2012-175, finds

1 that the charges and allegations in Accusation No. 2012-175, are separately and severally, found  
2 to be true and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement are \$2,075.00 as of May 11, 2012.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Nikki Burrows has subjected her  
8 Registered Nurse License No. 481029 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered  
11 Nurse License based upon the following violations alleged in the Accusation which are supported  
12 by the evidence contained in the Default Decision Evidence Packet in this case:

13 a. Business and Professions Code section 2761, subdivision (a), for unprofessional  
14 conduct.

15 b. Business and Professions Code section 2762, subdivision (a), for obtaining and  
16 possessing heroin in violation of Business and Professions Code section 4060,  
17 subdivision (a).

18 c. Business and Professions Code section 2762, subdivision (a), for furnishing heroin to  
19 another.

20 d. Business and Professions Code section 2762, subdivision (a), for administering heroin  
21 to herself.

22 e. Business and Professions Code section 2762, subdivision (a), for administering heroin  
23 to another.

24 f. Business and Professions Code section 2762, subdivision (b), for using heroin in a  
25 manner dangerous or injurious to herself and others, or to the extent that such use  
26 impaired her ability to safely practice nursing.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 481029, heretofore issued to Respondent Nikki Burrows, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on AUGUST 30, 2012.

It is so ORDERED JULY 31, 2012

*Raymond Mallef*

FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

default decision\_LIC.rtf  
DOJ Matter ID:SF2011202549

Attachments: Exhibit A—Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 LESLIE E. BRAST  
Deputy Attorney General  
4 State Bar No. 203296  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
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6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-175

12 **NIKKI BURROWS**  
13 33 Harvest Street  
Salinas, CA 93901

**A C C U S A T I O N**

14 Registered Nurse License No. RN 481029

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
21 Department of Consumer Affairs.

22 2. On or about August 31, 1992, the Board issued Registered Nurse License Number  
23 RN 481029 to Nikki Burrows (Respondent). The license was in full force and effect at all times  
24 relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following  
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
28 indicated.

1           4. Code section 2750 provides, in pertinent part, that the Board may discipline any  
2 licensee, including a licensee holding a temporary or an inactive license, for any reason provided  
3 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4           5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
5 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
6 to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the  
7 Board may renew an expired license at any time within eight years after the expiration.

8                           STATUTORY/REGULATORY PROVISIONS

9           6. Code section 2761 states, in pertinent part:

10           "The board may take disciplinary action against a certified or licensed nurse or deny an  
11 application for a certificate or license for any of the following:

12           "(a) Unprofessional conduct, which includes, but is not limited to, the following:

13           "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
14 functions."

15           7. Section 2762 of the Code states:

16           "In addition to other acts constituting unprofessional conduct within the meaning of this  
17 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
18 chapter to do any of the following:

19           "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
20 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
21 administer to another, any controlled substance as defined in Division 10 (commencing with  
22 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
23 defined in Section 4022.

24           "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
25 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
26 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
27 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
28 ability to conduct with safety to the public the practice authorized by his or her license."

1 8. California Code of Regulations, title 16, section 1442, states:

2 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure  
3 from the standard of care which, under similar circumstances, would have ordinarily been  
4 exercised by a competent registered nurse. Such an extreme departure means the repeated failure  
5 to provide nursing care as required or failure to provide care or to exercise ordinary precaution in  
6 a single situation which the nurse knew, or should have known, could have jeopardized the  
7 client's health or life."

8 COST RECOVERY

9 9. Code section 125.3 provides, in pertinent part, that the Board may request the  
10 administrative law judge to direct a licensee found to have committed a violation or violations of  
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case.

13 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

14 10. Code section 4021 states:

15 "'Controlled substance' means any substance listed in Chapter 2 (commencing with  
16 Section 11053) of Division 10 of the Health and Safety Code."

17 11. Code section 4022 provides:

18 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in  
19 humans or animals, and includes the following:

20 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without  
21 prescription,' 'Rx only,' or words of similar import.

22 "(b) Any device that bears the statement: 'Caution: federal law restricts this device to sale  
23 by or on the order of a \_\_\_\_\_,' 'Rx only,' or words of similar import, the blank to be filled  
24 in with the designation of the practitioner licensed to use or order use of the device.

25 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
26 prescription or furnished pursuant to Section 4006."

27 12. Heroin is a Schedule 1 controlled substance as designated by Health and Safety Code  
28 section 11054 (c)(11), and a dangerous drug within the meaning of Code section 4022.



1 FIRST CAUSE FOR DISCIPLINE

2 (General Unprofessional Conduct)

3 13. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),  
4 for unprofessional conduct, as follows:

5 14. On or about the morning of April 6, 2008, Respondent administered heroin to herself  
6 and her roommate, LC, by way of intravenous (IV) injection. Respondent had been using heroin  
7 on and off since she was 17 years old. Respondent and LC had been using heroin together for a  
8 couple of weeks prior to April 6, 2008. Respondent purchased the heroin for her own use and  
9 also provided the drug to LC.

10 15. On the morning of April 6, 2008, Respondent prepared a syringe and injected herself  
11 with heroin at approximately 6:00 am; Respondent prepared a syringe and injected LC with  
12 heroin at or before approximately 10:00 am. Respondent injected LC with heroin because LC  
13 was unable to "hit her own veins."

14 16. Immediately following the injection, LC began stumbling around, fell down and  
15 passed out. Respondent's adult daughter called 911 for medical assistance. Respondent disposed  
16 of the drug paraphernalia before police and emergency medical personnel arrived.

17 17. Respondent was taken into custody by Salinas police and charged with violation of  
18 California Health and Safety Code section 11550, subdivision (a) (use/under the influence of a  
19 controlled substance). At the time of her arrest, Respondent had been the primary caretaker of  
20 her minor granddaughter for approximately two to three years. Entry of judgment was deferred  
21 (DEJ) and Respondent was ordered into a drug education and rehabilitation program. On or  
22 about December 21, 2009, Respondent provided proof of completion and the charge was  
23 dismissed.

24 SECOND CAUSE FOR DISCIPLINE

25 (Obtain/Possess Heroin)

26 18. Respondent is subject to disciplinary action under Code section 2762, subdivision (a),  
27 for obtaining and possessing heroin in violation of Code section 4060, subdivision (a), as  
28 described in paragraph 14, above.

1 THIRD CAUSE FOR DISCIPLINE

2 (Furnish Heroin to Another)

3 19. Respondent is subject to disciplinary action under Code section 2762, subdivision (a),  
4 for furnishing heroin to another, as described in paragraph 14, above.

5 FOURTH CAUSE FOR DISCIPLINE

6 (Self-Administration of Heroin)

7 20. Respondent is subject to disciplinary action under Code section 2762, subdivision (a),  
8 for administering heroin to herself, as described in paragraphs 14-15, above.

9 FIFTH CAUSE FOR DISCIPLINE

10 (Administer Heroin to Another)

11 21. Respondent is subject to disciplinary action under Code section 2762, subdivision (a),  
12 for administering heroin to another, as described in paragraphs 14-15, above.

13 SIXTH CAUSE FOR DISCIPLINE

14 (Dangerous or Injurious Use of Heroin)

15 22. Respondent is subject to disciplinary action under Code section 2762, subdivision (b),  
16 for using heroin in a manner dangerous or injurious to herself and others, or to the extent that  
17 such use impaired her ability to safely practice nursing, in that Respondent obtained heroin which  
18 she administered to herself and another in the home she shared with her minor granddaughter for  
19 whom Respondent was the primary caretaker, as described in paragraphs 14-17, above.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number RN 481029, issued to  
24 Nikki Burrows;

25 2. Ordering Nikki Burrows to pay the Board of Registered Nursing the reasonable costs  
26 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
27 section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: September 26, 2011

for Anne Ben  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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